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SPECIAL REPORT

25 YEARS OF SPORTS LAW SCHOLARSHIP:
THE HISTORY OF THE MARQUETTE SPORTS LAW JOURNAL/REVIEW

PAUL M. ANDERSON*

As one trained and experienced in the law, I recognize the great value of a publication of this nature and quality. As we know, sports and the law have become inexorably linked in modern society. We need only pick up the daily newspaper to encounter legal issues in amateur, collegiate, Olympic [sic], and professional sports. The National Sports Law Institute at Marquette University Law School has taken the lead in producing a journal completely dedicated to the scholarly treatment of sports law issues. As the legal system affects an ever-growing number of individuals in sports, the need for this journal increases.¹

Originally created as the Journal of the National Sports Law Institute;² and first published on January 1, 1991, what was originally called the Marquette Sports Law Journal, and now is the Marquette Sports Law Review, began with these words in a Preface from then Major League Baseball Commissioner Fay Vincent.³ For the past twenty-five years this publication has attempted to meet

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² The cover of the first issue of the Marquette Sport Law Journal included the byline “Journal of the National Sports Law Institute” under its title.
³ Vincent, supra, note 2. Although this publication started as the Marquette Sports Law Journal, it is now known as the Marquette Sports Law Review and will be referred primarily by that name within this report.
the needs of the sports industry by publishing thoughtful, high quality scholarship. As the Marquette Sports Law Review completes the publication of its twenty-fifth volume with this issue, the time is right to reflect on what has been accomplished over the past quarter century.

HISTORY

Several national sports law organizations and prominent publications began in the 1970s. The Sports Lawyers Association began in 1974, and the American Bar Association’s Forum on the Entertainment and Sports Industries began in 1977. Lionel Sobel’s Professional Sports & The Law was published in 1977, Edward Grayson’s Sport and the Law in 1978, and John Weistart and Cym Lowell’s well known treatise, The Law of Sports, in 1979. At around the same time, returning from a sports agent’s conference in 1978, National Sports Law Institute founder Professor Martin Greenberg proposed the creation of a new sports law course at Marquette University Law School called “Negotiating and Drafting of Personal Service Contracts.” Taught for the first time in the spring of 1979, the faculty was uncomfortable with a course focused on sports law and so renamed the course “Personal Service Contracts.” To many, the law of sports did not become a legitimate area of study within the law school environment until the creation of the Association of American Law Schools section on law and sports in 1981.

Ten years after creating his course, and with the support of the Green Bay Packers, Milwaukee Brewers, Milwaukee Bucks, Milwaukee Admirals, and Miller Brewing Company, Professor Greenberg led the law school as it created the National Sports Law Institute at Marquette University Law School on February 15, 1989. Its initial mission was to “promote the development of ethical practices in all phases of amateur and professional sports...[to] seek to educate competent professionals to recognize and deal with the increasingly complex issues involving athletes, coaches, owners and other interested parties at all levels of organized sports.” In order to meet this mission, and to involve

8. Id.
10. Id.
Marquette University Law School students in the development of the Institute and the Sports Law program, the Institute created the *Marquette Sports Law Journal* in the spring semester of the 1989-1990 academic school year.

Although prominent sports-based journals have been around since the 1970s (i.e. the *Journal of Sport and Social Issues* began in 1977), the first publication with a partial focus on sports law was the American Bar Association’s Forum on the Entertainment and Sports Industries newsletter, the *Entertainment and Sports Lawyer*, first published in 1982. The University of Miami was the first law school to publish a journal with a partial focus on sports law when it published the *Entertainment and Sports Law Journal*, starting in 1984 and ending as the *University of Miami Entertainment and Sports Law Review* in 1997. Both of these publications split their focus between sports and entertainment law, often focusing the majority of their pages on entertainment law issues. The publication of the *Marquette Sports Law Journal* in 1990 was groundbreaking as for the “first time in legal history. . . a law review was entirely dedicated to sports law scholarship.”


Since this time many other publications have entered the arena. Today several other law schools publish journals focused on sports law scholarship (i.e. Willamette, Mississippi, DePaul, St. John’s, and Fordham), and following the lead of Miami and Villanova, others expand their coverage to include sports and entertainment law scholarship (i.e. Berkeley, Harvard, Denver, Arizona

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12. James Gray, *The NSLI Genesis of Genius*, FOR THE RECORD, Vol. 20, No. 3 (National Sports Law Institute, Marquette University Law School), July-Sept. 2009, at 3. A graduate of the class of 1990, Professor Gray was the first Assistant Director of the National Sports Law Institute and was instrumental in the creation of the Marquette Sports Law Journal.

State, Texas, and Virginia). Over the past twenty years, “as the number of journals devoted to sports and entertainment proliferated” this competition has made it “challenging to ensure publication of high-quality articles,” but Marquette has continued to dedicate its resources to producing a high quality sports law review. In addition, the law school changed the name of this publication from the Marquette Sports Law Journal to the Marquette Sports Law Review in 2000 with the publication of Volume 11, Number 1. This name change reasserted the Sports Law Review’s preeminence in the field as at the time it was the only sports law review published at an American law school.

CONTENT

Over the past twenty-five years, Marquette University Law School students have consistently published two issues of the Sports Law Review each year (in fall and spring), for a total of fifty issues and 13,182 pages. These fifty issues have included 276 articles, seventy student comments, and twenty-eight essays. The typical issue contains six articles and one student comment, along with two to three other documents (i.e. indices, surveys, etc.). The average length of an issue of the Review is 270 pages, while the longest issue was 550 pages, also containing the most documents ever published with seventeen articles, one foreword, an international perspective, and an index. Two other issues were a relatively short 122 pages long. The average length of the publications included in the Review is twenty-six pages, with the longest article coming in at 154 pages, and the shortest at six pages.


17. Any student written article published in the Sports Law Review is designated as a comment. All other articles have no designation unless they are “essays,” shorter works often espousing the author’s opinion on a recent issue.

18. Volume 12, Number 1, the Fall 2001 issue including the first Marquette University Law School faculty symposium, Sports Law: A Law Faculty’s Individual and Collective Perspectives.


Reflecting the many areas of law that regulate and impact the sports industry, the following eleven areas of law (ranked from most to least coverage) have been the focus of the most publications with the *Sports Law Review* over the past twenty-five years;

- Gender equity law,
- Constitutional law,
- Intellectual property law,
- Tort law and Regulation of the NCAA,\(^\text{22}\)
- Contract law,
- Labor law,
- Antitrust law,
- Alternative dispute resolution,
- Ethical issues in sports, and
- Civil Rights Law.

Given the topic coverage within the *Sports Law Review* perhaps it is not surprising that many of its articles and reports have been frequently cited. According to the Shephards database on LexisAdvance, and the Keycite database on WestLawNext, the following articles have been cited to the most within other scholarship:\(^\text{23}\)


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\(^{22}\) These topic areas tied in the amount of coverage.

\(^{23}\) In 1999, as part of the ten year anniversary of the creation of the National Sports Law Institute and recognizing that the *Marquette Sports Law Journal* had been an “important participant in the past decade’s debates over sports law and sports policy,” the Institute published a book featuring selected articles from the Journal’s first decade. *SPORTS LAW AND REGULATION*, *supra* note 10, at 7.
In order to enhance the quality of the articles submitted and to focus particular issues on the examination of current topics in the sports industry, the *Sports Law Review* began publishing symposium issues in 1992. The first two included materials originally created for the National Sports Law Institute’s *Sports Dollars & Sense Conference* presenting symposiums focused on sports industry contracts and negotiations. These issues included articles from high profile individuals in the sports industry, such as David Falk, Professor Gary Roberts, Brian Burke, and Donald Fehr. The *Sports Law Review* again published articles created as part of the National Sports Law Institute’s annual conference in 1999 (Volume 9, Number 2), with a symposium connected to its 1998 *Sports Law in the 21st Century* conference; in 2000 (Volume 10, Number

24. Volume 3, Number 1, Fall 1992, and Volume 4, Number 1, Fall 1993.
2), with a symposium connected to its 1999 conference *Sports Facilities and Development*; and in 2004 (Volume 15, Number 1), with a symposium connected to its 2003 *International Sports Law & Business in the 21st Century* conference. Other topical symposium issues have focused on

- Race and Sports (Volume 6, Number 2, Spring 1996),
- Ethics and Sports (Volume 7, Number 2, Spring 1997),
- Disability Issues in Sport (Volume 8, Number 2, Spring 1998),
- The Curt Flood Act (Volume 9, Number 2, Spring 1999),
- John Rocker (Volume 11, Number 2, Spring 2001),
- Title IX at Thirty (Volume 14, Number 1, Fall 2003),
- Alternative Dispute Resolution in Sports (Volume 16, Number 1, Fall 2005),
- Doping in Sports: Legal and Ethical Issues (Volume 19, Number 1, Fall 2008),
- Labor and Employment Law Issues in Sports (Volume 20, Number 1, Fall 2009), and
- Title IX at Forty (Volume 22, Number 2, Spring 2012).

The *Sports Law Review* has also published symposium issues featuring individuals with close connections to the National Sports Law Institute and Sports Law program at Marquette. Published in the Fall 2001 issue (Volume 12, Number 1), the first symposium issue of this type, *Sports Law: A Law Faculty’s Individual and Collective Perspectives*, included articles from the Marquette University Law School faculty connecting their areas of expertise to the sports industry in new and interesting ways. A second Marquette University Law School faculty symposium was published in the first issue of the current volume (Volume 25, Number 1) last fall.

In addition to articles from Marquette’s faculty, in 2006, the *Sports Law Review* published a symposium featuring articles from members of the National Sports Law Institute’s Board of Advisors (Volume 17, Number 1). In addition,
recognizing “the support and leadership of Marquette’s Sports Law program alumni,”
in 2010 (Volume 21, Number 1) the Sports Law Review published an issue
featuring articles written by Sports Law program alumni.

Overall, symposium issues allow the Sports Law Review to continue to
attract high quality scholarship and to focus this scholarship on timely topics in
order to provide readers with diverse perspectives on interesting current legal
issues in the sports industry. Perhaps it is no coincidence that these symposium
issues have also been the longest issues published with the first Marquette
University Law School faculty symposium issue the longest issue at 550 pages,
the issue focused on the 40th anniversary of Title IX next at 502 pages, the Sports
Law program alumni symposium issues at 463 pages, and the Institute Board of
Advisors’ symposium issue at 457 pages.

In addition to these symposium issues, the Sports Law Review has also
included several other types of publications, including:

Surveys: Since 2004, the Sports Law Review has published an
annual survey in each spring issue providing an overview of
important cases and other developments impacting the sports
industry. In 2011, this survey replaced the National Sports
Law Institute’s You Make the Call . . . newsletter as the primary
resource for Institute member’s providing annual information
on current developments in sports law. The Sports Law
Review has also published two surveys of Wisconsin law
supported by the Sports & Entertainment Law Section of the
State Bar of Wisconsin;

International Sports Law Perspectives: Recognizing the

29. This issue was published with the support of the National Sports Law Institute’s Sports Law
Alumni Association, whose members “along with our students (our future alums). . . are the lifeblood
of the Sports Law program at Marquette University Law School.” Id. at 2.
31. Recent Developments in Sports Law (formerly You Make the Call . . . ), https://law.marquette.edu/national-sports-law-institute/recent-developments-sports-law-formerly-you-
make-call.
32. National Sports Law Institute of Marquette University Law School, Survey: Sports Law in the
University Law School, Survey: Entertainment Law in the State of Wisconsin, 17 MARQ. SPORTS L.
REV. 519 (2007).
globalization of the sports industry, the *Sports Law Review* published its first *International Sports Law Perspective* in 2000, with Professor Jack Anderson’s article on criminal violence in sport from a British and Irish perspective. Since then the *Sports Law Review* has consistently sought to feature perspectives from international authors, most recently publishing Professor Shuli Guo’s study of his native China’s impact on the Court of Arbitration for Sport.

**Indices:** From 1993 until 1997, the *Sports Law Review* periodically included an index containing information about various materials published or held by the National Sports Law Institute. This index was replaced by the index of *Sports Law in Law Reviews and Journals*, in the fall of 1997.

**Special Reports/Features.** In the fall of 1991, the *Sports Law Review* published its first Special Feature. Written by Professor Bernard Maloy, this feature provided practical risk management guidance to sports facility managers. Eventually called Special Reports, other reports have been on sports gambling and assaults on sports officials.

**Other publications:** Over the years the *Sports Law Review* has published many other types of documents, including prefaces.

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35. See for example, *Index: MSLJ Backissues, For the Record and For the Record Extra Newsletters, and Videos Available Through the National Sports Law Institute*, 3 MARQ. SPORTS L.J. i (1993).


40. See for example, Judith M. Sweet, *Preface*, 1 MARQ. SPORTS L.J. VIII (1991). This preface is in the form of a letter published at the beginning of the Spring 1991 issue. At the time Ms. Sweet was
forewords to symposium issues, introductions, dedications, tributes, government reports and clarifications,\textsuperscript{41} book reviews, and lectures and speeches.\textsuperscript{42} Since its creation, the \textit{Sports Law Review} has also included detailed biographical information on each author at the beginning of each issue within a contributors section.

\textbf{AUTHORS}

Many authors have contributed their publications to the \textit{Marquette Sports Law Review} over the past twenty five-years. With the Review’s focus on providing quality scholarship that can impact the industry, perhaps it is not surprising that the majority of the scholarship has been written by practicing lawyers and law professors. Law students are the next largest group of authors, although much of their work has been on surveys and indices. After law students, professors from non-legal disciplines like sports management, and professionals who work within the sports industry, like WADA Director David Howman,\textsuperscript{43} round out the list of the most common types of authors found in the \textit{Sports Law Review}.

A list of authors with the most publications within the \textit{Sports Law Review} includes many with close ties to the Institute and Sports Law program at Marquette University Law School, including, in descending order of amount published

- 1) Professor Martin Greenberg, founder of the National Sports Law Institute of Marquette University Law School,
- 2) Professor Paul Anderson, Associate Director, Sports Law program and National Sports Law Institute of Marquette University Law School,
- 3/4/5 tied) Professor Matthew Mitten, Director, National Sports Law Institute and LL.M. in Sports Law Program for Foreign Lawyers; Professor Gordon Hylton, Marquette University Law

the President of the NCAA and athletic director at the University of California, San Diego.

\textsuperscript{41} Within each Title IX Symposium, the \textit{Sports Law Review} included copies of various governmental reports and other documents specific to developments in gender equity law at the time. \textit{See for example}, Gerald Reynolds, \textit{Further Clarification of Intercollegiate Athletics Policy Guidance Regarding Title IX Compliance}, 14 \textit{MARQ. SPORTS L. REV.} (2003).


\textsuperscript{43} David Howman, \textit{Supporting the Integrity of Sport and Combating Corruption}, 23 \textit{MARQ. SPORTS L. REV.} 245 (2013).
School; and Professor Richard McLaren, Professor of Law, Western University, London, Ontario, Canada, and Member, Court of Arbitration for Sport,

- 6/7 tied) Professor Timothy Davis, John W. & Ruth H. Turnage Professor of Law, School of Law, Wake Forest University, and Professor Alan Pogrozewski, St. John Fisher College,

- 8/9/10 tied) Professor Roger I. Abrams, Richardson Professor of Law, Northeastern University School of Law; Professor John Wolohan, David B. Falk College of Sports and Human Dynamics, Syracuse University; and Professor William Miller, Chair and Associate Professor, Health, Exercise Science & Sport Management, University of Wisconsin – Parkside.

LEADERSHIP

The success of the Marquette Sports Law Review depends almost entirely on the students at Marquette University Law School. Approximately 1,300 Marquette University Law School students have served in various capacities as members and editors of the Sports Law Review the past twenty-five years. Of this group, 221 students have served as editors with titles ranging from Managing Editor to Articles Editor, Student Articles Editor and Lead Articles Editor. While on average there have been a consistent four editorial board members, the smallest editorial staff had only two members for Volume 8, Number 1, the fall 1997 issue, while the largest had seven editors for both issues of Volume 2, in 1991 and 1992. On average, twenty students serve as members of the Sports Law Review each year, with the smallest staff for Volume 8, Number 1, with the aforementioned two editors and eleven members, and the largest staff for Volume 16, with thirty-nine total staff members (five editors, twenty nine members, and five associate editors).

No matter how large the staff has been, or the titles associated with the members and editors, the student Editor-in-Chief has been relied upon to ensure that the Sports Law Review continues to publish consistently high quality scholarship. Perhaps most notably, twelve of the twenty-five individuals listed below are women, including eight of the last ten individuals selected for this important leadership role44.

44. In addition, the Editor-in-Chief for Volume 26 will be Meghan Pirics.
<table>
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<th>Name</th>
<th>Volume/Issue/Year</th>
<th>Class of</th>
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<td>1989</td>
<td>Partner, Holland &amp; Hart, LLP, Jackson, Wyoming</td>
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<tr>
<td>Paul Anderson</td>
<td>4/1/Fall 1993</td>
<td>1995</td>
<td>Associate Director, Sports Law program and National Sports Law Institute of Marquette University Law School, Milwaukee, Wisconsin</td>
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<td>Troy Cross</td>
<td>8/1/Fall 1997</td>
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<td>Eryn Doherty</td>
<td>10/1/Fall 1999</td>
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<td>Vice President, Labor Relations, Sony Pictures Entertainment, Culver City, California</td>
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45. Some editors are listed with more than two issues because in addition to the normal two issues they completed, they also completed issues from the prior staff.
In addition to their leadership as students, in the fall of 2002 this group also became the *Sports Law Review Editors Alumni Board* providing guidance and counsel to future student leaders of the *Sports Law Review*.

Many Marquette University Law School faculty members have also served to guide the *Sports Law Review* over the past twenty-five years. Professor Jack
Kircher served as the first faculty advisor until 1997, when he joined a group of faculty members who now make up the Sports Law Review’s Advisory Board. Other faculty members who have served on this Board include Professor Paul Anderson, Dean Howard Eisenberg, Dean Frank DeGuire, Professor Jim Ghiardi, Professor J. Gordon Hylton, Professor Charles Mentkowski, Professor Matt Mitten, Professor Andrea Schneider, and Professor Phoebe Williams. In their roles with the National Sports Law Institute Professor Martin Greenberg and Professor James Gray advised the Sports Law Review from 1990 until 1997. Professor Paul Anderson has served as co-faculty advisor and review supervisor since 1996, and Professor Matt Mitten has served a co-faculty advisor since 1999.

**CONCLUSION**

In 1979, Professors Weistart and Lowell began their seminal sports law treatise, noting that at the time there were questions as to “whether there really was any such thing as ‘the law of sports’ [sports law].” Even in 2015, many in the sports industry and legal community still question whether the practice and study of sports law is a worthy endeavor as “[s]ports law is not seen as a field in itself, let alone as a discipline that can be studied.” Through the creation of the National Sports Law Institute and its Sports Law program, Marquette University Law School has been the leader in attempting to answer this question and has found the study and practice of sports law a worthy endeavor for law students, law professors, and practicing lawyers alike. This leadership is often best epitomized by the continued publication of the Marquette Sports Law Review, as the articles within continue to analyze the ways that the law impacts, regulates, and changes the sports industry. Although much has been written in the pages of this Review already, “[t]his is not to suggest, however, that there are no interesting sports issues left to be pursued. Indeed, the exploration has probably only just begun.”

46. Weistart & Lowell, supra note 7, at xviii.
48. Weistart & Lowell, supra note 7, at xviii.